

INTERNATIONAL PRELIMINARY EXAMINATION REPORT



(PCT Article 36 and Rule 70) 14 SEP 2004

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Applicant's or agent's file reference NW/8084INT	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/GB 03/01566	International filing date (day/month/year) 11.04.2003	Priority date (day/month/year) 16.04.2002
International Patent Classification (IPC) or both national classification and IPC A23C20/02		
Applicant MOREHANDS LIMITED		

- This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
- This REPORT consists of a total of 5 sheets, including this cover sheet.  
  
☒ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).  
  
These annexes consist of a total of 1 sheets.

- This report contains indications relating to the following items:
  - I ☒ Basis of the opinion
  - II ☐ Priority
  - III ☒ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
  - IV ☐ Lack of unity of invention
  - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
  - VI ☐ Certain documents cited
  - VII ☐ Certain defects in the international application
  - VIII ☐ Certain observations on the international application

Date of submission of the demand  13.11.2003	Date of completion of this report  12.07.2004
Name and mailing address of the international preliminary examining authority:   European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer  Korb, M  Telephone No. +49 89 2399-8639  

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT**

International application No. **PCT/GB 03/01566**

**I. Basis of the report**

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

**Description, Pages**

1-7 as originally filed

**Claims, Numbers**

9 (part), 10-19 as originally filed

1-8, 9 (part) received on 26.05.2004 with letter of 26.05.2004

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).  
☐ the language of publication of the international application (under Rule 48.3(b)).  
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.  
☐ filed together with the international application in computer readable form.  
☐ furnished subsequently to this Authority in written form.  
☐ furnished subsequently to this Authority in computer readable form.  
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.  
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:  
☐ the claims, Nos.:  
☐ the drawings, sheets:

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

*(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)*

6. Additional observations, if necessary:

**III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability**

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**III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability**

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application,

☒ claims Nos. 17,18,19

because:

☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (specify):

☒ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):

**see separate sheet**

☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.

☐ no international search report has been established for the said claims Nos.

2. A meaningful international preliminary examination cannot be carried out due to the failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions:

☐ the written form has not been furnished or does not comply with the Standard.

☐ the computer readable form has not been furnished or does not comply with the Standard.

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1-20
Inventive step (IS)	Yes: Claims	
	No: Claims	1-20
Industrial applicability (IA)	Yes: Claims	1-20
	No: Claims	

2. Citations and explanations

**see separate sheet**

**Re Item I**

**Basis of the report**

The amendment in claim 1 reading "8-15% salt preservative component, mixed together to form a matrix," filed with the letter dated 26.05.2004 introduce subject-matter extends beyond the content of the application as filed, contrary to Article 34(2)(b) PCT since the specific amount of 8% in context with "the salt preservative component, mixed together to form a matrix" is not disclosed in the originally filed application. Hence the preliminary report is based on the wording of the originally filed claim 1.

**Re Item III**

**Non-establishment of opinion with regard to novelty, inventive step and industrial applicability**

Claims 17 to 19 (last 3 claims on page 10) rely on references to the description which is not allowable (R. 6.2 (a) PCT).

**Re Item V**

**Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

While the applicant's observations submitted with the amended claims have been considered, the previously expressed opinion is nevertheless maintained for the following reasons:

1. Reference is made to the following documents:

- D1: US-A-3 689 290 (BLACKSTOCK HOYT A ET AL) 5 September 1972 (1972-09-05)
- D2: DE-A-2 352 197 (see ISA210-3, patent family member of FR 2203592)
- D3: DATABASE WPI Section Ch, Week 198417 Derwent Publications Ltd., London, GB; Class D13, AN 1984-104764 XP002250626 & JP 59 048047 A (SEKIYA Y), 19 March 1984 (1984-03-19)
- D4: PATENT ABSTRACTS OF JAPAN vol. 015, no. 221 (C-0838), 6 June 1991 (1991-06-06) & JP 03 067544 A (SHINWA:KK), 22 March 1991 (1991-03-22)

2. D1 (cf. col.2, l.6-61 and examples I and II) and D2 (cf. p.1, last paragraph to p.2, paragraph 2 and examples 1-11) each document considered separately discloses a cheese substitute comprising bland edible particulate, vegetable fat component, salt component and Parmesan flavouring in amounts falling within the scope of claim 1. Hence the cheese substitute per se according to claim 1 is not considered novel over D1 or D2 (Art. 33(2) PCT).

3. The method for producing such a cheese substitute process according to claim 17 (on page 9) which defines the amounts of the components in brackets is not considered novel over D1 or D2 (Art. 33(2) PCT). Each of said documents discloses a step of combining the salt component with the other components as defined in claim 17 to form a particulate parmesan cheese resembling product (see D1, example 1, col.4, l.69-71 or D2 (examples 1-11) or D3 (abstract) or D4(abstract).

4. The dependent claims 2-16 and 18-20 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty (Art. 33(2) PCT) and/or inventive step (Art. 33(3) PCT) in view of D1 to D4.

5. The bracketed features in claim 17 (on page 9) are not allowable, since it is not clear whether said bracketed features are limiting or not, contrary to the requirements of Art. 6 PCT. Furthermore the general statements in the description (p.7, paragraph 3, 1st sentence, and p.7, last paragraph) imply that the extent of protection may be expanded in some vague and not precisely defined way, contrary to Art. 6 PCT.

6. Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the documents D1 to D4 is not mentioned in the description, nor are these documents identified therein.

**CLAIMS**

1. A cheese substitute comprising by weight, 60-95% bland edible particulate, 1-25% vegetable fat component and 8-15% salt preservative component, mixed together to form a matrix, and a parmesan flavouring.
2. A cheese substitute as claimed in claim 1, in which the bland edible particulate comprises protein.
3. A cheese substitute as claimed in claim 1 or claim 2, in which the bland edible particulate comprises a soya product.
4. A cheese substitute as claimed in any preceding claim, in which the bland edible particulate comprises one or more of seed, bean, pulse, pea and lentil product.
5. A cheese substitute as claimed in claim 3, in which the soya product comprises about 70%, the vegetable fat component about 17%, the salt preservative component about 12% and the parmesan flavouring about 0.5%, by weight of the cheese substitute.
6. A cheese substitute as claimed in any of claims 3 to 5, in which the soya product is in the form of a flour.
7. A cheese substitute as claimed in any of claims 3 to 6, in which the soya product comprises a soya bean or soya flour derivative.
8. A cheese substitute as claimed in claim 6, in which the soya product component is a full fat, pre-cooked soya flour.
9. A cheese substitute as claimed in any preceding claim, in which the